

or the public, generally. Income from sale of mutual funds is an insignificant portion of my firm's business, but we do believe that the evangelistic effort of the many small security dealers and salesmen who specialize solely in mutual funds is beneficial to the whole industry.

The small companies who do primarily nothing but mutual funds are in reality the John The Baptists of the free enterprise system—invest in America—selling a participation in the capitalist system. While we are not interested in the small sales that are generally made by those who specialize in mutual funds (the average mutual fund share purchased today is \$1,240—commission gross of about \$86.80), we do feel that such sales representatives serve a very worthwhile purpose and they introduce people into the investment community.

Compensation paid for mutual fund sales is no where near as high as that paid for sale of a life insurance policy, yet the sales of each type of security, mutual funds and life insurance, is highly competitive with the other.

An economic survey of the National Association of Security Dealers concludes that the largest firms in the NASD would suffer only 8% loss in net income as a result of the enactment of all SEC proposals, while the smaller firms would have income after taxes reduced by more than three times. Of these smaller firms operating in the black before the SEC proposal, three-fifths would be forced from a profit to a loss position. Thus, it is obvious that many, if not most, of these firms would be forced out of business by the SEC proposal.

I hope that you will oppose these amendments with Mr. Sparkman, the proposer, and on the Floor of the House, at least until such time as the Securities & Exchange Commission provides some economic basis for their recommendations, other than the flat charge that profit in itself is evil.

I feel that my industry and my country needs these voices in the wilderness crying out the virtues of the American system. I can't afford to go into the wilderness, and they can't afford to stay there with the reduced compensation.

Sincerely yours,

John
J. E. McCLELLAND,
President.

INVESTMENT COMPANY INSTITUTE,
New York, N.Y., October 27, 1967.

Hon. JOHN E. MOSS,
*Chairman, Subcommittee on Commerce and Finance,
Rayburn House Office Building, Washington, D.C.*

DEAR CONGRESSMAN MOSS: In the course of Chairman Cohen's testimony on H.R. 9510 and 9511, he stated that the Investment Company Act of 1940 has been ineffective in controlling management fees. In so doing he made statements concerning the legislative history of the 1940 Act which call for correction.

He argued that the statute had provided "a shield" (e.g. Hearings, p. 869) which protects the profits of the management company. He also implied that what he considers to be inadequacies in the statute stem from compromises in the original bill which were made while it was pending in the Congress on the eve of our involvement in the Second World War (Hearings, p. 19). Finally, during his final appearance before the Committee, Chairman Cohen concluded that the situation has developed since then to "defeat the very purposes of the Congress in 1940 . . .". Or, as was also stated by Chairman Cohen: "We are trying to restore the statute to what the Congress intended to achieve in 1940". (Hearings, p. 870).

Since we have been of the view that the primary question before the Congress is whether there is any condition in the mutual fund industry which calls for remedial legislation, in our presentation we did not focus on the legislative purposes which underlay the 1940 Act. However, in view of the repeated claim that the proposed legislation with respect to management fees is not novel because in 1940 Congress attempted to legislate in this area, albeit ineffectively, some comment is called for. The Record of the 1940 Act hearings is replete with evidence that the purposes of the Congress were not to reverse traditional corporate law and embark on regulation of management fees. The testimony before the House Committee of David Schenker, who managed the Bill for the SEC, is quite definite and clear on this point. It should be noted that in the following extract Mr. Schenker was testifying on the original bill, *before* there were any of the compromises that Chairman Cohen alluded to: